

IP/SA



14th October 2008

Mail Stop PETITION
Commissioner for Patents
United States Patent and Trade Mark Office
P. O. Box 1450
Alexandria
VA 22313-1450
USA

Re application 10/562,525
Filed December 27 2005
Entitled: FENCING INCLUDING VISIBLE BAND

Renewed Petition under 37 CFR 1.137(a)

For the attention of –

Alesia M. Brown
Patent Attorney
Office of Petitions.

We refer to your letter of September 22nd 2008 .

The issues you raised regarding proper authorisation by both registered applicants has now been dealt with and the amended petition is enclosed.

Please note that on two occasions the first renewal fee has been tendered only to be returned due to the application being recorded as abandoned.

Yours sincerely,

Michael Smith

Carolyn Smith

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

First Named Inventor: MICHAEL ALEXANDER SMITH Art Unit: 3679
 Application Number: 10/562,525 Examiner: GARCIA, ERNESTO
 Filed: 12/27/2005
 Title: FENCING INCLUDING VISIBLE BAND



Attention: Office of Petitions
Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
 Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☒ Small entity – fee \$ 255.00 (37 CFR 1.17(l)). Applicant claims small entity status.
 See 37 CFR 1.27.

☐ Other than small entity – fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of
RESPONSE TO EXAMINER'S REPORT (identify the type of reply):

☒ has been filed previously on 13 MARCH 2008
☐ is enclosed herewith.

B The issue fee of \$ 795.00

☒ has been filed previously on 13 MARCH 2008
☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

[Signature] *[Signature]*
MICHAEL ALEXANDER SMITH CAROLYN YNDRA SMITH
Signature

Typed or printed name

14 OCTOBER 2008

Date

RD1, 657 ONGARUO STREAM ROAD, WAIMIHA,
TAUMARANUI, 3998 KING COUNTRY
Address
NEW ZEALAND
Address

Registration Number, if applicable

64-7-8945857

Telephone Number

Enclosure ☐ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☐

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☒ deposited with the ~~United States~~ Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. NEW ZEALAND

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

15 OCTOBER 2008

Date

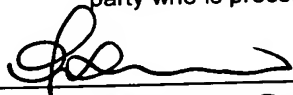
[Signature] *[Signature]*
MICHAEL ALEXANDER SMITH CAROLYN YNDRA SMITH
Signature

Typed or printed name of person signing certificate

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



MICHAEL ALEXANDER
SMITH

Signature



CAROLYN YNDRA
SMITH

Typed or printed name

14th October 2008

Date

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

SEE ATTACHED

(Please attach additional sheets if additional space is needed.)

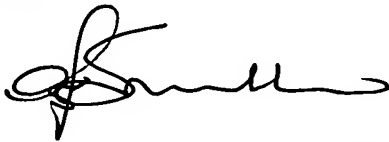
Michael Alexander Smith and Carolyn Yndra Smith declare as follows

1. We are the applicants in the above application.
2. THE reply to Mr Ernesto's Garcia's examination report was despatched on October 31st through New Zealand Post and DHL to the US Patent and Trademark Office. See copy of NZ Post receipt and Consignment note.
3. Enclosed with the reply was a bank draft for \$795.00 in keeping with the delayed response. See copy of Westpac Banking Corporation receipt.
4. Instructions on the consignment note were for the package to be returned if delivery could not be made. This was not done.
5. It is unclear what happened to the package after arrival in the US. Many conflicting remarks have been made by DHL. Ultimately the package was requested to be returned to New Zealand and although this has been done it still has not arrived in my possession.
6. New Zealand Post acknowledge that the package appears to be lost and confirm that in their letter of 13th February 2008. On going searches have continued but to date without success.
7. On the 6th January 2008 the first renewal fee was forwarded and this original documentation together with the fee is enclosed. This was returned by the USPTO due to the patent then being recorded as "Abandoned ". This is now enclosed should this petition be accepted.

We humbly submit that the circumstances that befell the non arrival our reply to Mr Garcia's examination report were outside our control and that the failure of DHL to either deliver or promptly return our submission have resulted in an unavoidable outcome.

Your reinstatement of the Patent, acceptance of the reply to the examiners report and the recording of Payment of the maintenance fee would be greatly appreciated.

Signed



Name

MICHAEL SMITH

Date

14th OCTOBER 2008



CAROLYN Y SMITH

14th OCTOBER 2008



Consignment Note *comp* *this form in English*

TO (Receiver)	
Name: GYMNASIUM FOR ALEX	Date: 24.10.07
Company: LIS. VALENT & TRADING MARK (GmbH)	
Address: MAXIMILIANSTRASSE 103/103B, A-1210 VIENNA, AUSTRIA	
Gymnasium für Alex	
City: ALEXANDRIA	
State/Region: VIRGINIA	Postal/Zip Codes: 22312-46
Country: USA	Tel No:
Receiver's VAT/GST No. (optional):	

FROM: (Sender)	
Name:	PAUL HARRIS CAMPTON
Company:	
Address:	RD ONEGRASS CIRCLE ROAD INDIANA 37092 KING COUNTY
City:	INDIANAPOLIS
Country:	NEW ZEALAND
Postcode:	37092
Tel No:	07/8945857
Sender's Account No (TPIID):	
Sender's ID and Reference:	

CUSTOMS DECLARATION		No. of items	Value NZ\$
<input type="checkbox"/> Documents <input type="checkbox"/> Gift <input type="checkbox"/> Merchandise/Sample	Itemised List of Contents: 1. 100% COTTON T-SHIRT (100% COTTON)	1	100

100

ED 158 733 444 NZ

Please tick the service you require.

International Express

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PRIORITY**

(for approved commercial customers only)

4. ADDITIONAL COMPENSATION COVER / NON-DELIVERY

<input type="checkbox"/> Additional Compensation Cover <input type="checkbox"/> Cover Required	Insured Value NZ\$ _____ Sender's instructions in case of non-delivery <input checked="" type="checkbox"/> Return (at sender's expense) <input type="checkbox"/> Treat as Abandoned/Discard
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5. SENDER'S AUTHORIZATION AND SIGNATURE:
I certify that the contents do not contain any prohibited or dangerous articles and may be opened officially; I agree to the terms and conditions of carriage on the reverse of the Sender's copy.

Signature of Sender

Instructions

1. Please press firmly with a ball point pen - you are making 4 copies.
2. Complete this form in **ENGLISH**.
3. Tick the box next to the delivery service required.
4. Remove Sender's copy (after payment if lodged at a New Zealand Post outlet).
5. An export invoice **MUST** be completed for all non-documents (gifts/merchandise/samples).

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New Zealand Post

New Zealand Post Limited
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31-OCT-2007

12:23:32

TXN NO. : W1108020 69836
Teller Id : TELLER2

Receipt For New Zealand Post
Products Or Services
TAX INVOICE GST #27-351-767

PRODUCT	QTY	\$ AMOUNT
INT EXP DOC A,B,C,D,E Destination Zone C Weight 500gm & 1.0kg 0 - 500gm Weight(kg) 0.05	1	41.70*
SUBTOTAL		<u>\$41.70</u>

ALL PRICES GST INCLUSIVE
GST DOES NOT APPLY TO ITEMS MARKED *

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5035138482220247 DEBIT 0908 CHQ
31/10/07 12:22:26 00 TERM 194111080003
TRANS NO 030459 AUTH CODE 184088
PURCHASE \$41.70
CASH OUT
TOTAL AMT \$41.70
ACCEPTED

TRANSACTION TOTAL \$41.70

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Item Identifier(s)

ED158733444NZ

NEW ZEALAND POST
PLEASE RETAIN AS PROOF OF PURCHASE

Taumarunui
58 Miriama Street
Taumarunui

31 October 2007

Visi-Band Fencing Systems Limited
C/- MA + CY Smith
657 Ongarue Stream Road, RD
Waimiha

We have issued draft number: 15090484
In favour of: U.S Patent and Trademark Office
For amount: USD 795.00
Our transaction reference: 0426 000002363
Value date: 31/10/2007

Our Bank Charges

DRAFT COMM.	NZD	25.00
TOTAL BANK CHARGES:	NZD	25.00

Conversion Details

AMOUNT	FEC No.	EXCH. RATE	AMOUNT
USD 795.00		0.75930000	NZD 1,047.02
NZD 25.00		1.00000000	NZD 25.00

Settlement Details

CUSTOMER REF	ACCOUNT NUMBER	AMOUNT
	03-0426-0208271-00	NZD 1,072.02 DR

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x9534673

13 February 2008

Michael Smith
657 Ongarue Stream Road
RD 1
Waimiha 3998

Dear Michael Smith,

Thank you for your inquiry concerning the parcel posted to Us Patent and Trademark Office on 31st October 2007.

Compensation for the failure of delivery of the item is now being considered. If approved, we will direct credit the compensation payment to your nominated bank account. In order that this may be finalised, please provide the following, if not already supplied; proof of posting, proof of purchase (receipt or invoice) and bank account details (such as a printed deposit slip or bank statement showing name and account details only).

Please respond within 5 days of this letter. Claims will be declined should this documentation not be provided.

Yours faithfully

Conrad Hargreaves
Customer Service Representative

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AUCKLAND 1142

TOLL FREE: 0800 736 353
FACSIMILE: (09) 367 9669

X9534673

27 March 2008

Michael Smith
657 Ongarue Stream Road
RD 1
Waimiha 3998

Dear Michael,

Thank you for your inquiry concerning the parcel ED158733444NZ posted to Us Patent and Trademark Office on Wednesday, 31 October 2007.

Regrettably our inquiries to date have been unsuccessful in locating your parcel. Compensation for the original postage and the missing articles is now being considered. As previously advised, if approved, we will direct credit the compensation payment to your nominated bank account.

In order that this may be finalised, please provide the following, if not already supplied:

- A copy of the postage receipt
- A copy of the original customs declaration form (international postings only)
- Evidence of contents value
- Evidence of cost price (business customers only)
- Evidence of online auction details (online auction customers only)
- A copy of your bank account details

Please obtain all of the requested documentation and return it to us in the Freepost envelope provided within 5 days of this letter, so we can finalise your claim as soon as possible. Claims will not be processed until all of the relevant documentation has been provided.

Yours faithfully



Maiana Toatoa
Customer Service Representative